



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB2493

by Rep. Arthur Turner

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102	from Ch. 68, par. 2-102
775 ILCS 5/2-103	from Ch. 68, par. 2-103
775 ILCS 5/7A-102	from Ch. 68, par. 7A-102

Amends the Illinois Human Rights Act. Adds managerial and supervisory employees to the class of individuals barred from engaging in sexual harassment. Provides that a supervisory employee includes only employees who, with independent judgment, are authorized to hire, transfer, suspend, lay off, recall, promote, discharge, discipline, and handle grievances of the charging employee at the time of the alleged harassment without regard to whether any qualifying supervisory or managerial employee had such powers over other, non-charging employees. Provides that a managerial employee includes only employees who, with independent judgment, manage the affairs of a business, office, or other organization. Provides that an employer may ask an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial. Provides that upon reviewing a report of an allegation of a human rights violation, the Director of the Department of Human Rights shall make a determination of substantial evidence when there is a genuine issue of material fact that is in dispute. Defines material fact, and provides that any genuine dispute as to the existence of any material fact shall be resolved by viewing the fact in the light most favorable to the charging party. Provides that the Director shall determine whether the entirety of the facts found in the investigation taken, including genuinely disputed material facts viewed in the light most favorable to the charging party, comprises substantial evidence to support the determination that a civil rights violation has been committed. Effective immediately.

LRB098 08319 HEP 38424 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by  
5 changing Sections 2-102, 2-103 and 7A-102 as follows:

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

7 Sec. 2-102. Civil Rights Violations - Employment. It is a  
8 civil rights violation:

9 (A) Employers. For any employer to refuse to hire, to  
10 segregate, or to act with respect to recruitment, hiring,  
11 promotion, renewal of employment, selection for training or  
12 apprenticeship, discharge, discipline, tenure or terms,  
13 privileges or conditions of employment on the basis of unlawful  
14 discrimination or citizenship status.

15 (A-5) Language. For an employer to impose a restriction  
16 that has the effect of prohibiting a language from being spoken  
17 by an employee in communications that are unrelated to the  
18 employee's duties.

19 For the purposes of this subdivision (A-5), "language"  
20 means a person's native tongue, such as Polish, Spanish, or  
21 Chinese. "Language" does not include such things as slang,  
22 jargon, profanity, or vulgarity.

23 (B) Employment Agency. For any employment agency to fail or

1 refuse to classify properly, accept applications and register  
2 for employment referral or apprenticeship referral, refer for  
3 employment, or refer for apprenticeship on the basis of  
4 unlawful discrimination or citizenship status or to accept from  
5 any person any job order, requisition or request for referral  
6 of applicants for employment or apprenticeship which makes or  
7 has the effect of making unlawful discrimination or  
8 discrimination on the basis of citizenship status a condition  
9 of referral.

10 (C) Labor Organization. For any labor organization to  
11 limit, segregate or classify its membership, or to limit  
12 employment opportunities, selection and training for  
13 apprenticeship in any trade or craft, or otherwise to take, or  
14 fail to take, any action which affects adversely any person's  
15 status as an employee or as an applicant for employment or as  
16 an apprentice, or as an applicant for apprenticeships, or  
17 wages, tenure, hours of employment or apprenticeship  
18 conditions on the basis of unlawful discrimination or  
19 citizenship status.

20 (D) Sexual Harassment. For any employer, employee,  
21 managerial employee, supervisory employee, agent of any  
22 employer, employment agency or labor organization to engage in  
23 sexual harassment; provided, that an employer shall be  
24 responsible for sexual harassment of the employer's employees  
25 by nonemployees or nonmanagerial and nonsupervisory employees  
26 only if the employer becomes aware of the conduct and fails to

1 take reasonable corrective measures. A supervisory employee  
2 includes only employees who with independent judgment are  
3 authorized to hire, transfer, suspend, lay off, recall,  
4 promote, discharge, discipline, and handle grievances of the  
5 charging employee at the time of the alleged harassment without  
6 regard to whether any qualifying supervisory or managerial  
7 employee had such powers over other, non-charging employees. A  
8 managerial employee includes only employees who, with  
9 independent judgment, manage the affairs of a business, office,  
10 or other organization.

11 (E) Public Employers. For any public employer to refuse to  
12 permit a public employee under its jurisdiction who takes time  
13 off from work in order to practice his or her religious beliefs  
14 to engage in work, during hours other than such employee's  
15 regular working hours, consistent with the operational needs of  
16 the employer and in order to compensate for work time lost for  
17 such religious reasons. Any employee who elects such deferred  
18 work shall be compensated at the wage rate which he or she  
19 would have earned during the originally scheduled work period.  
20 The employer may require that an employee who plans to take  
21 time off from work in order to practice his or her religious  
22 beliefs provide the employer with a notice of his or her  
23 intention to be absent from work not exceeding 5 days prior to  
24 the date of absence.

25 (F) Training and Apprenticeship Programs. For any  
26 employer, employment agency or labor organization to

1 discriminate against a person on the basis of age in the  
2 selection, referral for or conduct of apprenticeship or  
3 training programs.

4 (G) Immigration-Related Practices.

5 (1) for an employer to request for purposes of  
6 satisfying the requirements of Section 1324a(b) of Title 8  
7 of the United States Code, as now or hereafter amended,  
8 more or different documents than are required under such  
9 Section or to refuse to honor documents tendered that on  
10 their face reasonably appear to be genuine; or

11 (2) for an employer participating in the Basic Pilot  
12 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot  
13 Programs for Employment Eligibility Confirmation (enacted  
14 by PL 104-208, div. C title IV, subtitle A) to refuse to  
15 hire, to segregate, or to act with respect to recruitment,  
16 hiring, promotion, renewal of employment, selection for  
17 training or apprenticeship, discharge, discipline, tenure  
18 or terms, privileges or conditions of employment without  
19 following the procedures under the Basic Pilot Program.

20 (H) Pregnancy; peace officers and fire fighters. For a  
21 public employer to refuse to temporarily transfer a pregnant  
22 female peace officer or pregnant female fire fighter to a less  
23 strenuous or hazardous position for the duration of her  
24 pregnancy if she so requests, with the advice of her physician,  
25 where that transfer can be reasonably accommodated. For the  
26 purposes of this subdivision (H), "peace officer" and "fire

1 fighter" have the meanings ascribed to those terms in Section 3  
2 of the Illinois Public Labor Relations Act.

3 It is not a civil rights violation for an employer to take  
4 any action that is required by Section 1324a of Title 8 of the  
5 United States Code, as now or hereafter amended.

6 (I) Pregnancy. For an employer to refuse to hire, to  
7 segregate, or to act with respect to recruitment, hiring,  
8 promotion, renewal of employment, selection for training or  
9 apprenticeship, discharge, discipline, tenure or terms,  
10 privileges or conditions of employment on the basis of  
11 pregnancy, childbirth, or related medical conditions. Women  
12 affected by pregnancy, childbirth, or related medical  
13 conditions shall be treated the same for all employment-related  
14 purposes, including receipt of benefits under fringe benefit  
15 programs, as other persons not so affected but similar in their  
16 ability or inability to work.

17 (Source: P.A. 97-596, eff. 8-26-11.)

18 (775 ILCS 5/2-103) (from Ch. 68, par. 2-103)

19 Sec. 2-103. Arrest Record.

20 (A) Unless otherwise authorized by law, it is a civil  
21 rights violation for any employer, employment agency or labor  
22 organization to inquire into or to use the fact of an arrest or  
23 criminal history record information ordered expunged, sealed  
24 or impounded under Section 5.2 of the Criminal Identification  
25 Act as a basis to refuse to hire, to segregate, or to act with

1 respect to recruitment, hiring, promotion, renewal of  
2 employment, selection for training or apprenticeship,  
3 discharge, discipline, tenure or terms, privileges or  
4 conditions of employment. This Section does not prohibit a  
5 State agency, unit of local government or school district, or  
6 private organization from requesting or utilizing sealed  
7 felony conviction information obtained from the Department of  
8 State Police under the provisions of Section 3 of the Criminal  
9 Identification Act or under other State or federal laws or  
10 regulations that require criminal background checks in  
11 evaluating the qualifications and character of an employee or a  
12 prospective employee.

13 (B) The prohibition against the use of the fact of an  
14 arrest contained in this Section shall not be construed to  
15 prohibit an employer, employment agency, or labor organization  
16 from obtaining or using other information which indicates that  
17 a person actually engaged in the conduct for which he or she  
18 was arrested.

19 (C) Nothing in this Section prevents an employer from  
20 asking an employee or applicant for employment about an arrest  
21 for which the employee or applicant is out on bail or on his or  
22 her own recognizance pending trial.

23 (Source: P.A. 96-409, eff. 1-1-10.)

24 (775 ILCS 5/7A-102) (from Ch. 68, par. 7A-102)

25 Sec. 7A-102. Procedures.

1 (A) Charge.

2 (1) Within 180 days after the date that a civil rights  
3 violation allegedly has been committed, a charge in writing  
4 under oath or affirmation may be filed with the Department  
5 by an aggrieved party or issued by the Department itself  
6 under the signature of the Director.

7 (2) The charge shall be in such detail as to  
8 substantially apprise any party properly concerned as to  
9 the time, place, and facts surrounding the alleged civil  
10 rights violation.

11 (3) Charges deemed filed with the Department pursuant  
12 to subsection (A-1) of this Section shall be deemed to be  
13 in compliance with this subsection.

14 (A-1) Equal Employment Opportunity Commission Charges.

15 (1) If a charge is filed with the Equal Employment  
16 Opportunity Commission (EEOC) within 180 days after the  
17 date of the alleged civil rights violation, the charge  
18 shall be deemed filed with the Department on the date filed  
19 with the EEOC. If the EEOC is the governmental agency  
20 designated to investigate the charge first, the Department  
21 shall take no action until the EEOC makes a determination  
22 on the charge and after the complainant notifies the  
23 Department of the EEOC's determination. In such cases,  
24 after receiving notice from the EEOC that a charge was  
25 filed, the Department shall notify the parties that (i) a  
26 charge has been received by the EEOC and has been sent to

1 the Department for dual filing purposes; (ii) the EEOC is  
2 the governmental agency responsible for investigating the  
3 charge and that the investigation shall be conducted  
4 pursuant to the rules and procedures adopted by the EEOC;  
5 (iii) it will take no action on the charge until the EEOC  
6 issues its determination; (iv) the complainant must submit  
7 a copy of the EEOC's determination within 30 days after  
8 service of the determination by the EEOC on complainant;  
9 and (v) that the time period to investigate the charge  
10 contained in subsection (G) of this Section is tolled from  
11 the date on which the charge is filed with the EEOC until  
12 the EEOC issues its determination.

13 (2) If the EEOC finds reasonable cause to believe that  
14 there has been a violation of federal law and if the  
15 Department is timely notified of the EEOC's findings by  
16 complainant, the Department shall notify complainant that  
17 the Department has adopted the EEOC's determination of  
18 reasonable cause and that complainant has the right, within  
19 90 days after receipt of the Department's notice, to either  
20 file his or her own complaint with the Illinois Human  
21 Rights Commission or commence a civil action in the  
22 appropriate circuit court or other appropriate court of  
23 competent jurisdiction. The Department's notice to  
24 complainant that the Department has adopted the EEOC's  
25 determination of reasonable cause shall constitute the  
26 Department's Report for purposes of subparagraph (D) of

1           this Section.

2           (3) For those charges alleging violations within the  
3 jurisdiction of both the EEOC and the Department and for  
4 which the EEOC either (i) does not issue a determination,  
5 but does issue the complainant a notice of a right to sue,  
6 including when the right to sue is issued at the request of  
7 the complainant, or (ii) determines that it is unable to  
8 establish that illegal discrimination has occurred and  
9 issues the complainant a right to sue notice, and if the  
10 Department is timely notified of the EEOC's determination  
11 by complainant, the Department shall notify the parties  
12 that the Department will adopt the EEOC's determination as  
13 a dismissal for lack of substantial evidence unless the  
14 complainant requests in writing within 35 days after  
15 receipt of the Department's notice that the Department  
16 review the EEOC's determination.

17           (a) If the complainant does not file a written  
18 request with the Department to review the EEOC's  
19 determination within 35 days after receipt of the  
20 Department's notice, the Department shall notify  
21 complainant that the decision of the EEOC has been  
22 adopted by the Department as a dismissal for lack of  
23 substantial evidence and that the complainant has the  
24 right, within 90 days after receipt of the Department's  
25 notice, to commence a civil action in the appropriate  
26 circuit court or other appropriate court of competent

1 jurisdiction. The Department's notice to complainant  
2 that the Department has adopted the EEOC's  
3 determination shall constitute the Department's report  
4 for purposes of subparagraph (D) of this Section.

5 (b) If the complainant does file a written request  
6 with the Department to review the EEOC's  
7 determination, the Department shall review the EEOC's  
8 determination and any evidence obtained by the EEOC  
9 during its investigation. If, after reviewing the  
10 EEOC's determination and any evidence obtained by the  
11 EEOC, the Department determines there is no need for  
12 further investigation of the charge, the Department  
13 shall issue a report and the Director shall determine  
14 whether there is substantial evidence that the alleged  
15 civil rights violation has been committed pursuant to  
16 subsection (D) of Section 7A-102. If, after reviewing  
17 the EEOC's determination and any evidence obtained by  
18 the EEOC, the Department determines there is a need for  
19 further investigation of the charge, the Department  
20 may conduct any further investigation it deems  
21 necessary. After reviewing the EEOC's determination,  
22 the evidence obtained by the EEOC, and any additional  
23 investigation conducted by the Department, the  
24 Department shall issue a report and the Director shall  
25 determine whether there is substantial evidence that  
26 the alleged civil rights violation has been committed

1           pursuant to subsection (D) of Section 7A-102 of this  
2           Act.

3           (4) Pursuant to this Section, if the EEOC dismisses the  
4           charge or a portion of the charge of discrimination  
5           because, under federal law, the EEOC lacks jurisdiction  
6           over the charge, and if, under this Act, the Department has  
7           jurisdiction over the charge of discrimination, the  
8           Department shall investigate the charge or portion of the  
9           charge dismissed by the EEOC for lack of jurisdiction  
10          pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),  
11          (E), (F), (G), (H), (I), (J), and (K) of Section 7A-102 of  
12          this Act.

13          (5) The time limit set out in subsection (G) of this  
14          Section is tolled from the date on which the charge is  
15          filed with the EEOC to the date on which the EEOC issues  
16          its determination.

17          (B) Notice and Response to Charge. The Department shall,  
18          within 10 days of the date on which the charge was filed, serve  
19          a copy of the charge on the respondent. This period shall not  
20          be construed to be jurisdictional. The charging party and the  
21          respondent may each file a position statement and other  
22          materials with the Department regarding the charge of alleged  
23          discrimination within 60 days of receipt of the notice of the  
24          charge. The position statements and other materials filed shall  
25          remain confidential unless otherwise agreed to by the party  
26          providing the information and shall not be served on or made

1 available to the other party during pendency of a charge with  
2 the Department. The Department shall require the respondent to  
3 file a verified response to the allegations contained in the  
4 charge within 60 days of receipt of the notice of the charge.  
5 The respondent shall serve a copy of its response on the  
6 complainant or his representative. All allegations contained  
7 in the charge not timely denied by the respondent shall be  
8 deemed admitted, unless the respondent states that it is  
9 without sufficient information to form a belief with respect to  
10 such allegation. The Department may issue a notice of default  
11 directed to any respondent who fails to file a verified  
12 response to a charge within 60 days of receipt of the notice of  
13 the charge, unless the respondent can demonstrate good cause as  
14 to why such notice should not issue. The term "good cause"  
15 shall be defined by rule promulgated by the Department. Within  
16 30 days of receipt of the respondent's response, the  
17 complainant may file a reply to said response and shall serve a  
18 copy of said reply on the respondent or his representative. A  
19 party shall have the right to supplement his response or reply  
20 at any time that the investigation of the charge is pending.  
21 The Department shall, within 10 days of the date on which the  
22 charge was filed, and again no later than 335 days thereafter,  
23 send by certified or registered mail written notice to the  
24 complainant and to the respondent informing the complainant of  
25 the complainant's right to either file a complaint with the  
26 Human Rights Commission or commence a civil action in the

1 appropriate circuit court under subparagraph (2) of paragraph  
2 (G), including in such notice the dates within which the  
3 complainant may exercise this right. In the notice the  
4 Department shall notify the complainant that the charge of  
5 civil rights violation will be dismissed with prejudice and  
6 with no right to further proceed if a written complaint is not  
7 timely filed with the Commission or with the appropriate  
8 circuit court by the complainant pursuant to subparagraph (2)  
9 of paragraph (G) or by the Department pursuant to subparagraph  
10 (1) of paragraph (G).

11 (B-1) Mediation. The complainant and respondent may agree  
12 to voluntarily submit the charge to mediation without waiving  
13 any rights that are otherwise available to either party  
14 pursuant to this Act and without incurring any obligation to  
15 accept the result of the mediation process. Nothing occurring  
16 in mediation shall be disclosed by the Department or admissible  
17 in evidence in any subsequent proceeding unless the complainant  
18 and the respondent agree in writing that such disclosure be  
19 made.

20 (C) Investigation.

21 (1) After the respondent has been notified, the  
22 Department shall conduct a full investigation of the  
23 allegations set forth in the charge.

24 (2) The Director or his or her designated  
25 representatives shall have authority to request any member  
26 of the Commission to issue subpoenas to compel the

1 attendance of a witness or the production for examination  
2 of any books, records or documents whatsoever.

3 (3) If any witness whose testimony is required for any  
4 investigation resides outside the State, or through  
5 illness or any other good cause as determined by the  
6 Director is unable to be interviewed by the investigator or  
7 appear at a fact finding conference, his or her testimony  
8 or deposition may be taken, within or without the State, in  
9 the same manner as is provided for in the taking of  
10 depositions in civil cases in circuit courts.

11 (4) Upon reasonable notice to the complainant and the  
12 respondent, the Department shall conduct a fact finding  
13 conference, unless prior to 365 days after the date on  
14 which the charge was filed the Director has determined  
15 whether there is substantial evidence that the alleged  
16 civil rights violation has been committed, the charge has  
17 been dismissed for lack of jurisdiction, or the parties  
18 voluntarily and in writing agree to waive the fact finding  
19 conference. Any party's failure to attend the conference  
20 without good cause shall result in dismissal or default.  
21 The term "good cause" shall be defined by rule promulgated  
22 by the Department. A notice of dismissal or default shall  
23 be issued by the Director. The notice of default issued by  
24 the Director shall notify the respondent that a request for  
25 review may be filed in writing with the Commission within  
26 30 days of receipt of notice of default. The notice of

1 dismissal issued by the Director shall give the complainant  
2 notice of his or her right to seek review of the dismissal  
3 before the Human Rights Commission or commence a civil  
4 action in the appropriate circuit court. If the complainant  
5 chooses to have the Human Rights Commission review the  
6 dismissal order, he or she shall file a request for review  
7 with the Commission within 90 days after receipt of the  
8 Director's notice. If the complainant chooses to file a  
9 request for review with the Commission, he or she may not  
10 later commence a civil action in a circuit court. If the  
11 complainant chooses to commence a civil action in a circuit  
12 court, he or she must do so within 90 days after receipt of  
13 the Director's notice.

14 (D) Report.

15 (1) Each charge shall be the subject of a report to the  
16 Director. The report shall be a confidential document  
17 subject to review by the Director, authorized Department  
18 employees, the parties, and, where indicated by this Act,  
19 members of the Commission or their designated hearing  
20 officers.

21 (2) Upon review of the report, the Director shall  
22 determine whether there is substantial evidence that the  
23 alleged civil rights violation has been committed. The  
24 determination of substantial evidence is limited to  
25 determining the need for further consideration of the  
26 charge pursuant to this Act and includes, but is not

1 limited to, findings of fact and conclusions, as well as  
2 the reasons for the determinations on all material issues.  
3 Substantial evidence is evidence which a reasonable mind  
4 accepts as sufficient to support a particular conclusion  
5 and which consists of more than a mere scintilla but may be  
6 somewhat less than a preponderance. The Director shall make  
7 a determination of substantial evidence when there is a  
8 genuine issue of material fact that is in dispute. A  
9 material fact is a fact that is necessary to establish one  
10 or more elements of the alleged civil rights violation. Any  
11 genuine dispute as to the existence of any material fact  
12 shall be resolved by viewing the fact in the light most  
13 favorable to the charging party. The Director shall then  
14 determine whether the entirety of the facts found in the  
15 investigation taken, including genuinely disputed material  
16 facts viewed in the light most favorable to the charging  
17 party, comprises substantial evidence to support the  
18 determination that a civil rights violation has been  
19 committed.

20 (3) If the Director determines that there is no  
21 substantial evidence, the charge shall be dismissed by  
22 order of the Director and the Director shall give the  
23 complainant notice of his or her right to seek review of  
24 the dismissal order before the Commission or commence a  
25 civil action in the appropriate circuit court. If the  
26 complainant chooses to have the Human Rights Commission

1 review the dismissal order, he or she shall file a request  
2 for review with the Commission within 90 days after receipt  
3 of the Director's notice. If the complainant chooses to  
4 file a request for review with the Commission, he or she  
5 may not later commence a civil action in a circuit court.  
6 If the complainant chooses to commence a civil action in a  
7 circuit court, he or she must do so within 90 days after  
8 receipt of the Director's notice.

9 (4) If the Director determines that there is  
10 substantial evidence, he or she shall notify the  
11 complainant and respondent of that determination. The  
12 Director shall also notify the parties that the complainant  
13 has the right to either commence a civil action in the  
14 appropriate circuit court or request that the Department of  
15 Human Rights file a complaint with the Human Rights  
16 Commission on his or her behalf. Any such complaint shall  
17 be filed within 90 days after receipt of the Director's  
18 notice. If the complainant chooses to have the Department  
19 file a complaint with the Human Rights Commission on his or  
20 her behalf, the complainant must, within 30 days after  
21 receipt of the Director's notice, request in writing that  
22 the Department file the complaint. If the complainant  
23 timely requests that the Department file the complaint, the  
24 Department shall file the complaint on his or her behalf.  
25 If the complainant fails to timely request that the  
26 Department file the complaint, the complainant may file his

1 or her complaint with the Commission or commence a civil  
2 action in the appropriate circuit court. If the complainant  
3 files a complaint with the Human Rights Commission, the  
4 complainant shall give notice to the Department of the  
5 filing of the complaint with the Human Rights Commission.

6 (E) Conciliation.

7 (1) When there is a finding of substantial evidence,  
8 the Department may designate a Department employee who is  
9 an attorney licensed to practice in Illinois to endeavor to  
10 eliminate the effect of the alleged civil rights violation  
11 and to prevent its repetition by means of conference and  
12 conciliation.

13 (2) When the Department determines that a formal  
14 conciliation conference is necessary, the complainant and  
15 respondent shall be notified of the time and place of the  
16 conference by registered or certified mail at least 10 days  
17 prior thereto and either or both parties shall appear at  
18 the conference in person or by attorney.

19 (3) The place fixed for the conference shall be within  
20 35 miles of the place where the civil rights violation is  
21 alleged to have been committed.

22 (4) Nothing occurring at the conference shall be  
23 disclosed by the Department unless the complainant and  
24 respondent agree in writing that such disclosure be made.

25 (5) The Department's efforts to conciliate the matter  
26 shall not stay or extend the time for filing the complaint

1 with the Commission or the circuit court.

2 (F) Complaint.

3 (1) When the complainant requests that the Department  
4 file a complaint with the Commission on his or her behalf,  
5 the Department shall prepare a written complaint, under  
6 oath or affirmation, stating the nature of the civil rights  
7 violation substantially as alleged in the charge  
8 previously filed and the relief sought on behalf of the  
9 aggrieved party. The Department shall file the complaint  
10 with the Commission.

11 (2) If the complainant chooses to commence a civil  
12 action in a circuit court, he or she must do so in the  
13 circuit court in the county wherein the civil rights  
14 violation was allegedly committed. The form of the  
15 complaint in any such civil action shall be in accordance  
16 with the Illinois Code of Civil Procedure.

17 (G) Time Limit.

18 (1) When a charge of a civil rights violation has been  
19 properly filed, the Department, within 365 days thereof or  
20 within any extension of that period agreed to in writing by  
21 all parties, shall issue its report as required by  
22 subparagraph (D). Any such report shall be duly served upon  
23 both the complainant and the respondent.

24 (2) If the Department has not issued its report within  
25 365 days after the charge is filed, or any such longer  
26 period agreed to in writing by all the parties, the

1 complainant shall have 90 days to either file his or her  
2 own complaint with the Human Rights Commission or commence  
3 a civil action in the appropriate circuit court. If the  
4 complainant files a complaint with the Commission, the form  
5 of the complaint shall be in accordance with the provisions  
6 of paragraph (F)(1). If the complainant commences a civil  
7 action in a circuit court, the form of the complaint shall  
8 be in accordance with the Illinois Code of Civil Procedure.  
9 The aggrieved party shall notify the Department that a  
10 complaint has been filed and shall serve a copy of the  
11 complaint on the Department on the same date that the  
12 complaint is filed with the Commission or in circuit court.  
13 If the complainant files a complaint with the Commission,  
14 he or she may not later commence a civil action in circuit  
15 court.

16 (3) If an aggrieved party files a complaint with the  
17 Human Rights Commission or commences a civil action in  
18 circuit court pursuant to paragraph (2) of this subsection,  
19 or if the time period for filing a complaint has expired,  
20 the Department shall immediately cease its investigation  
21 and dismiss the charge of civil rights violation. Any final  
22 order entered by the Commission under this Section is  
23 appealable in accordance with paragraph (B)(1) of Section  
24 8-111. Failure to immediately cease an investigation and  
25 dismiss the charge of civil rights violation as provided in  
26 this paragraph (3) constitutes grounds for entry of an

1 order by the circuit court permanently enjoining the  
2 investigation. The Department may also be liable for any  
3 costs and other damages incurred by the respondent as a  
4 result of the action of the Department.

5 (4) The Department shall stay any administrative  
6 proceedings under this Section after the filing of a civil  
7 action by or on behalf of the aggrieved party under any  
8 federal or State law seeking relief with respect to the  
9 alleged civil rights violation.

10 (H) This amendatory Act of 1995 applies to causes of action  
11 filed on or after January 1, 1996.

12 (I) This amendatory Act of 1996 applies to causes of action  
13 filed on or after January 1, 1996.

14 (J) The changes made to this Section by Public Act 95-243  
15 apply to charges filed on or after the effective date of those  
16 changes.

17 (K) The changes made to this Section by this amendatory Act  
18 of the 96th General Assembly apply to charges filed on or after  
19 the effective date of those changes.

20 (Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12; 97-596,  
21 eff. 8-26-11; 97-813, eff. 7-13-12.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.